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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2019-0639; FRL-10020-79]

MCPA; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of MCPA in or on tea and intermediate wheatgrass forage, grain, hay, and straw. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Objections and requests for hearings must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2019-0639, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. How Can I File an Objection or Hearing Request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2019-0639 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or

before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2019-0639, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Summary of Petitioned-For Tolerance

In the *Federal Register* of April 15, 2020 (85 FR 20910) (FRL-10006-54), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9E8797) by IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.339 be amended by establishing tolerances for residues of the herbicide MCPA ((4-chloro-2-methylphenoxy) acetic acid), both free and conjugated, resulting from the direct application of MCPA or its sodium or dimethylamine salts, or its 2-ethylhexyl ester in or on the following

agricultural commodities: Tea, plucked leaves at 0.3 parts per million (ppm); Wheatgrass, intermediate, forage at 20 ppm; Wheatgrass, intermediate, grain at 1 ppm; Wheatgrass, intermediate, hay at 115 ppm; and Wheatgrass, intermediate, straw at 25 ppm. That document referenced a summary of the petition prepared by Nufarm, the registrant, which is available in the docket, *http://www.regulations.gov*. A comment was received on the notice of filing but was unrelated to the chemical MCPA, this action, or pesticides in general.

Based upon review of the data supporting the petition, EPA has modified the levels at which the wheatgrass tolerances are being established as well as the commodity definition for tea. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D)**,** EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for MCPA including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with MCPA follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The kidney is the major target organ following MCPA exposure. In the subchronic inhalation toxicity study, respiratory tract effects were observed following repeat inhalation exposure. Additional toxic effects include neurotoxicity, which was observed in the acute and subchronic neurotoxicity (ACN/SCN) studies and in a rat developmental toxicity study. The developmental neurotoxicity study (DNT) did not identify developmental neurotoxicity.

Quantitative susceptibility was observed in the rat developmental toxicity study with MCPA acid based on increased incidence of skeletal retardation and decreased fetal body weight at a dose that was a maternal no observed adverse effect level (NOAEL). There was also quantitative susceptibility in the 2-generation rat reproductive toxicity study with MCPA acid as evidenced by decreased lactational pup body weight at an offspring lowest observed adverse effect level (LOAEL) corresponding to a parental NOAEL. Qualitative susceptibility was noted in the DNT study based on increased pup mortality and decreased body weights at the same LOAEL as the maternal LOAEL (decreased body weight and food consumptions).

MCPA is classified as “Not Likely to Be Carcinogenic to Humans”, based on long-term studies in rats and mice, and there are low mutagenicity concerns. There is no concern for immunotoxicity.

Additional information on the toxicological profile can be found at *http://www.regulations.gov* in the document titled “MCPA. Human Health Risk Assessment to Support a New Use on Intermediate Wheatgrass and the Establishment of a Tolerance without a U.S. Registration for Tea” (hereinafter “MCPA Human Health Risk Assessment”) in docket ID number EPA-HQ-OPP-2019-0639.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level - generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) - and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticide*.

A summary of the toxicological endpoints for MCPA used for human risk assessment can be found in the MCPA Human Health Risk Assessment.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to MCPA, EPA considered exposure under the petitioned-for tolerances as well as all existing MCPA tolerances in 40 CFR 180.339. EPA assessed dietary exposures from MCPA in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for MCPA.

In conducting the acute dietary exposure assessment, EPA used the 2003-2008 food consumption data from the U.S. Department of Agriculture's (USDA) National Health and

Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The acute dietary exposure assessment is unrefined and is based on tolerance-level residues and 100 percent crop treated (PCT).

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment, EPA used the 2003-2008 food consumption data from the USDA's NHANES/WWEIA. The chronic dietary exposure assessment is unrefined and is based on tolerance-level residues and 100 PCT.

iii. *Cancer*. MCPA is classified as "Not Likely to Be Carcinogenic to Humans" therefore, a cancer assessment is not needed.

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residue or PCT information in the dietary assessment for MCPA. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for MCPA in drinking water. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide in Water Calculator (PWC), for the acute dietary risk assessment, EPA used an estimated drinking water concentration (EDWC) of 236 ppb into the DEEM-FCID Model. For the chronic exposure assessment, EPA used a value of 208 ppb.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

MCPA is currently registered for uses that may result in residential handler and post-application exposures, including commercial and residential use on lawns, as well as commercial use on ornamental turf and trees, golf courses, and parks.

For the residential exposure scenarios, the most conservative, or worst case, residential adult and child scenarios have been selected to be included in the aggregate risk assessment. The scenarios are as follows:

Adult aggregate assessment: *Granular formulations*: dermal post-application exposure from high contact activities on treated lawns (Day 0 turf transferable residue (TTR)) at both the 1.85 lb acid equivalent (ae)/A and 1.5 lb ae/A rate.

Liquid formulations: dermal post-application exposure from high contact activities on treated lawns (average TTR) at both the 1.5 lb ae/A and 1.25 lb ae/A rate.

Children 11 to <16 years old and children 6 to <11 years old aggregate assessments: *Liquid formulations*: dermal post-application exposures from golfing (Day 0 TTR) on treated turf.

Children 1 to <2 years old aggregate assessment: *Granular formulations*: combined (dermal plus incidental oral) post-application exposures from high contact activities on treated lawns (Day 0 TTR) at both the 1.85 lb ae/A and 1.5 lb ae/A rate.

Liquid formulations: combined (dermal plus incidental oral) post-application exposures from high contact activities on treated lawns (average TTR) at both the 1.5 lb ae/A and 1.25 lb ae/A rate.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide*.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to MCPA and any other substances and MCPA does not appear to produce a toxic metabolite

produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that MCPA has a common mechanism of toxicity with other substances.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. In the developmental rat study with MCPA acid, quantitative susceptibility was demonstrated based on increased incidence of skeletal retardation and decreased fetal body weight at a dose that was a maternal NOAEL. MCPA acid, however, did not produce developmental toxicity in rabbits. Quantitative susceptibility was also evident in the 2-generation reproduction study in rats with MCPA acid, in which lactational pup body weight decrements were noted at a dose in offspring that was a parental NOAEL. Qualitative susceptibility was noted in the developmental neurotoxicity (DNT) study with MCPA acid based on increased pup mortality and body weights at the same LOAEL as the maternal LOAEL (decreased body weight and food consumptions). There was no evidence of quantitative or qualitative susceptibility in the developmental rat studies with MCPA dimethylamine (DMA) salt and MCPA ester forms.

Considering the overall toxicity profile and the doses and endpoints selected for risk assessment, the degree of concern for the effects observed in the studies are low because the developmental/offspring effects observed in the studies are well characterized and clear NOAELs/LOAELs have been identified in the studies for the effects of concern. Additionally, the

endpoints and PODs selected for risk assessment are protective of potential developmental/reproductive effects.

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X, except for acute dietary (general population) and inhalation scenarios where a 10X SF is retained for extrapolation of a LOAEL to a NOAEL. That decision is based on the following findings:

i. The toxicity database for MCPA is complete.

ii. Evidence of neurotoxicity was observed in the acute and subchronic neurotoxicity studies in rats, as indicated by various clinical signs of neurotoxicity. There were no developmental neurotoxic effects in the rat DNT study. There is a low degree of concern for the potential neurotoxic effects of MCPA since clear NOAELs were identified for the effects described above, there were no adverse neuropathological effects, and the endpoints chosen for risk assessment are protective of any potential neurotoxicity.

iii. As noted above, quantitative susceptibility was demonstrated in the developmental rat study, but not in rabbits. Quantitative susceptibility was also evident in the 2-generation reproduction study in rats. However, the degree of concern for the effects observed in the studies is low for the reasons summarized in Unit III.D.3.ii.

iv. There are no residual uncertainties identified in the exposure databases. The Agency has used high-end assumptions in the dietary exposure assessment, including the use of 100 PCT and tolerance-level residues, and upper-bound estimates of potential exposure through drinking water. In addition, the residential exposure assessment was conducted using chemical-specific data (where available) and the Agency's 2012 Residential SOPs; as such, residential exposures are unlikely to be underestimated.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the

estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions described in this unit for acute exposure, EPA has concluded that acute exposure to MCPA from food and water will utilize 29% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to MCPA from food and water will utilize 28% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). MCPA is registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to MCPA.

For the granular formulation exposure scenarios, the short-term aggregate MOEs using Day 0 residues for adults and children 1 to less than 2 years old are not of concern, at 230 and 120, respectively.

Some residential exposure scenarios on treated turf (liquid formulations) resulted in risk estimates of concern for adults and children when using the day of application (Day 0; screening level) residues from the chemical specific turf transferable residue (TTR) data. For these scenarios, aggregate assessments using risk estimates resulting from refinement of the TTR values (i.e., using average modeled TTR values) were conducted.

For the liquid formulation scenarios using Day 0 residues, the short-term aggregate MOEs are as follows: for children 6 to <11 years old the MOE = 330, and for children 11 to <16

years old, the MOE = 390. These MOEs are equal to or above the LOC (100) and are therefore not of concern. For the liquid formulation scenarios using average TTR (a refinement in the risk assessment), the short-term aggregate MOEs are not of concern for adults (MOE = 210) and for children 1 to <2 years old (MOE = 100) using 11-day average TTR. As noted above, a MOE equal to or greater than 100 is not of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however**,** MCPA is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for MCPA.

5. *Aggregate cancer risk for U.S. population*. MCPA is classified as "Not Likely to Be Carcinogenic to Humans"; therefore, EPA does not expect MCPA exposures to pose an aggregate cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to MCPA residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

For enforcement of tolerances for residues of MCPA, Pesticide Analytical Manual (PAM) Vol. II lists PAM Vol. I Sections 221.1, 421, and 422. No limit of quantitation is specified. It is noted that Section 221.1 has now become Section 402 (gas chromatography (GC) method for

acids and phenols) and Sections 421 and 422 (thin-layer chromatography (TLC) methods) no longer exist. The Residue Chemistry Chapter of the Registration Standard dated 8/31/1981 noted that the PAM Vol. I method is adequate for enforcement of tolerances for residues of MCPA in livestock commodities as-is, but recommended that the method be modified with a hydrolysis step for enforcement of MCPA tolerances for plant commodities. The current PAM Vol II methods are adequate for the enforcement of MCPA on plants and livestock commodities and no further modifications are required at this time

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

There are no Codex MRLs for MCPA in or on tea or intermediate wheatgrass.

C. Revisions to Petitioned-For Tolerances

EPA is establishing the tolerance on "tea, dried" rather than "tea, plucked leaves" to be consistent with Agency nomenclature.

The petitioner proposed tolerance levels for wheatgrass commodities based on the current tolerance levels for wheat commodities in 40 CFR 180.339. While EPA agrees that it is appropriate to base the tolerance levels for wheatgrass commodities on the tolerance levels for wheat commodities, given the similarities in crops, the Agency has reviewed the tolerances for wheat, grain and wheat, hay and determined that the current tolerances are too high. Upon review, crop field trial studies reflecting the use of MCPA showed residue levels that were lower than current tolerances. The OECD calculation procedure recommended tolerance levels of 0.2 ppm for wheat, grain and 40 ppm for wheat, hay. This discrepancy was identified during Registration Review; see "MCPA. Second Revision: Draft Human Health Risk Assessment in Support of Registration Review", which is available in docket ID EPA-HQ-OPP-2014-0180.

Moreover, the current Codex MRLs for wheat, forage, hay and straw are set at 50 ppm. Therefore, EPA intends to revise the existing wheat tolerances to reflect this analysis and to harmonize with Codex MRLs when updating the MCPA tolerances as part of Registration Review. Applying the same logic to the wheatgrass commodities, EPA is establishing those tolerances at 0.2 ppm for intermediate wheatgrass, grain and at 50 ppm for intermediate wheatgrass, forage, hay, and straw.

V. Conclusion

Therefore, tolerances are established for residues of MCPA in or on Tea, dried at 0.3 ppm; Wheatgrass, intermediate, forage at 50 ppm; Wheatgrass, intermediate, grain at 0.2 ppm; Wheatgrass, intermediate, hay at 50 ppm; and Wheatgrass, intermediate, straw at 50 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 et seq.).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 7, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.339, amend paragraph (a)(1) by designating the table as Table 1 to paragraph (a)(1) and adding in alphabetical order to newly designated Table 1 to paragraph (a)(1) entries for "Tea, dried"; "Wheatgrass, intermediate, forage"; "Wheatgrass, intermediate, grain"; "Wheatgrass, intermediate, hay" and "Wheatgrass, intermediate, straw" to read as follows:

§ 180.339 MCPA; tolerances for residues.

(a) * * *

(1) * * *

Table 1 to Paragraph (a)(1)

Commodity	Parts per million
* * * * * * *	
Tea, dried	0.3
* * * * * * *	
Wheatgrass, intermediate, forage	50
Wheatgrass, intermediate, grain	0.2
Wheatgrass, intermediate, hay	50
Wheatgrass, intermediate, straw	50

* * * * *

[FR Doc. 2021-07517 Filed: 4/12/2021 8:45 am; Publication Date: 4/13/2021]